

BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA

Docket No. 2019-290-WS

In Re:	)	
	)	
Application of Blue Granite Water	)	COMMENTS OF
Company for Approval to Adjust Rate	)	BLUE GRANITE WATER COMPANY
Schedules and Increase Rates	)	
_____	)	

Pursuant to the directive issued by the Public Service Commission of South Carolina (the “Commission”) on December 10, 2020 in the referenced proceeding, Blue Granite Water Company (“Blue Granite” or the “Company”) submits the following comments. To the Commission’s question as to whether the Accounting Order should continue and when it should be terminated, as explained in more detail below, the Accounting Order must continue until the Company has actually implemented rates under bond or new rates have been implemented at final disposition of the case.<sup>1</sup>

**I. Background**

1. On April 9, 2020, in Order No. 2020-306, the Commission ruled on Blue Granite’s Application for rate relief, denying a significant portion of the rate relief sought by the Company. On April 29, 2020, Blue Granite filed a Petition for Rehearing or Reconsideration with the Commission. On May 28, 2020, the Commission voted on Blue Granite’s Petition for Rehearing or Reconsideration, largely maintaining its initial order.

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<sup>1</sup> Blue Granite submits these comments while reserving its position that the Commission does not have the statutory authority to issue an order staying the rates that Blue Granite sought to implement under bond.

2. On June 8, 2020, pursuant to S.C. Code Ann. § 58-5-240(D), the Company filed a motion for approval of a bond that would secure for customers the difference between the rates authorized by the Commission and the rates which the Company intended to implement under bond, in addition to annual interest. On July 15, 2020, the Commission approved the Company's motion for approval of the bond by a 6-0 vote. The Company filed its executed surety bond, procured from Liberty Mutual Insurance Company, on August 17, 2020.

3. On August 18, 2020, the Commission issued Order No. 2020-549, directing the Clerk's office to schedule oral arguments on issues raised by the Consumer Advocate and staying the implementation of rates under bond "until further notice." Given the emerging uncertainty surrounding the Company's ability to recover the revenues associated with its rates under bond, on August 23, 2020, the Company filed a petition for approval of an accounting order to permit it to defer, in a regulatory asset account, the difference between the rates approved by the Commission on reconsideration and the rates it had planned to implement under bond.

4. The Commission held oral arguments on August 27, 2020, and issued a Directive on August 31, 2020 maintaining its stay of the Company's rates under bond and granting the Company's request for an accounting order. On September 1, 2020, the Company implemented the rates authorized by the Commission on reconsideration.

5. In Order No. 2020-758, the Commission (i) approved the bond filed by the Company pursuant to S.C. Code Ann. § 58-5-240(D); (ii) ordered that the stay of the Company's implementation of rates under bond imposed by Order No. 2020-549 continue until December 31, 2020; and (iii) granted the Company's request for an accounting order and ordered that it remain in effect until December 31, 2020.

6. The Company filed a petition for reconsideration and comments on November 20, 2020, requesting that the accounting order continue beyond December 31, 2020 and until the Company has had an adequate opportunity to prepare to issue the customer notice of the rate change, and has had a 30-day billing cycle to issue the customer notice.

7. The Commission issued a directive on December 10, 2020 granting the Company's request that the accounting order extend beyond December 31, 2020, and providing that parties be allowed to "file comments within thirty (30) days from the date of this directive on the question of whether the accounting order should be continued and, if so, when the accounting order should be terminated."

## II. Comments

8. The Company reserves and reiterates its position that the Commission's stay of the Company's implementation of rates under bond is not in accord with S.C. Code Ann. § 58-5-240(D). The governing statute grants utilities the right to implement rates under bond, and provides that there may be substituted "**for the bond** other arrangements satisfactory to the Commission for the protection of parties interested." S.C. Code Ann. § 58-5-240(D) (emphasis added). Previous arrangements acting as a substitute "for the bond" have included letters of credit and letters of undertaking obtained by the utility while the utility implemented new rates and appealed the Commission's decision. *See* Order No. 1982-491, Docket No. 1982-247-W (July 14, 1982); Order No. 1981-176, Docket No. 1981-84-S (Mar. 18, 1981); Order No. 1982-218, Docket No. 1982-111-W (Mar. 31, 1982); Order No. 1980-352, Docket No. 1980-162-WS (June 13, 1980). Such types of guarantees—bonds, letters of credit, and letters of undertaking—protect (1) customers by providing a reserve of funds should rates later be reduced and (2) protect the utility

by permitting new rates to go into effect. These arrangements are somewhat different from and are not properly substituted by an Accounting Order with the prospect of later recovery.

9. The Commission stated in Order No. 2020-758 that it believes that the Accounting Order “constitutes a substitution for the bond of ‘other arrangements satisfactory to the Commission for the protection of parties interested.’” Whether the Company agrees with this legal interpretation or not, implicit within the interpretation is the understanding that the Accounting Order is a substitute for implementing rates under bond during the pendency of the appeal and that interested parties will be protected by the Accounting Order in the same or a reasonably similar way that they would be protected by a utility implementing rates under bond. The deferral arrangement established by the Commission is substituting for an arrangement under which the Company immediately recovers increased revenue. To give effect to the Commission’s legal interpretation that the Accounting Order is a substitute under the statute, the following relief must be provided: (a) the Accounting Order must continue until the Company has actually implemented rates under bond or new rates are implemented at final disposition of the case; (b) the Company must be permitted to recover the deferred revenues in full<sup>2</sup>; and (c) the Company must be permitted to recover a return on the deferred revenues until the time of recovery. These requirements are explained in more detail below.

- a. The Accounting Order must continue until the Company has actually implemented rates under bond or new rates are implemented at final disposition of the case.**

10. To substitute for an arrangement by which the utility receives increased revenues “during the appeal and until final disposition of the case”—S.C. Code Ann. § 58-5-240(D)—the

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<sup>2</sup> The Company recognizes that the deferral amount is subject to adjustment following final disposition of the appeal in this case.

Accounting Order must continue until the Company has actually implemented rates under bond or new rates are implemented at final disposition of the case. As explained in the Company's petition for reconsideration and comments filed on November 20, 2020, Blue Granite needs at least 45 days to provide notice of the rate change to customers, i.e., a 30-day billing cycle and additional lead time to prepare the issuance. For that reason, the Accounting Order should continue until the Company has been able to prepare to issue the customer notice of the implementation of rates under bond or new rates, and has had a 30-day billing cycle to complete issuance of the customer notice. Ending the Accounting Order prior to the Company implementing new rates—whether those it intended to implement under bond or those implemented at the final disposition of the case—would serve to deny the Company's access to these revenues and fail to act, in any way, as a substitute for the bond or protect the interested parties.

**b. The Company must be permitted to recover the deferred revenues in full.**

11. To substitute for an arrangement in which the Company would be able to immediately recover increased revenues, subject to refund, the Company must be permitted to actually recover all of the revenues deferred under the Accounting Order, as adjusted following final disposition of the appeal. Granting an Accounting Order now as a substitute for the Company's implementation of rates under bond, and then later denying recovery of the deferral would conflict with the Commission's stated interpretation of S.C. Code Ann. § 58-5-240(D) that the deferral acts as a substitute and protects interested parties.

**c. The Company must be permitted to recover a return on the deferred revenues until the time of recovery.**

12. To substitute for an arrangement in which the Company would be able to immediately recover increased revenues beginning on September 1, 2020, the Company must be permitted to recover a return to cover the lost time value of the deferred revenues until the time of

their recovery. Granting the Accounting Order as a substitute for the Company's immediate implementation of rates under bond requires the future recovery of the lost time value on the deferred revenues. Such would be consistent with precedent requiring that rates reflect a balance between the "interest of the ratepayers and the right of the utility to earn a fair return." *S.C. Cable Television Ass'n v. S.C. Pub. Serv. Comm'n*, 313, S.C. 48, 51, 437 S.E.2d 38, 39 (1993).

### III. Conclusion

In conclusion, the Accounting Order must continue until the Company has actually implemented rates under bond or new rates have been implemented at the final disposition of the case.

Respectfully submitted,

s/Samuel J. Wellborn  
 Frank R. Ellerbe, III  
 Samuel J. Wellborn  
 ROBINSON GRAY STEPP & LAFFITTE, LLC  
 1310 Gadsden Street  
 Columbia, SC 29201  
 Telephone: (803) 231-7829  
[fellerbe@robinsongray.com](mailto:fellerbe@robinsongray.com)  
[swellborn@robinsongray.com](mailto:swellborn@robinsongray.com)

*Attorneys for Blue Granite Water Company*

Columbia, South Carolina  
 January 6, 2021